

By: Nelson

S.B. No. 745

A BILL TO BE ENTITLED

AN ACT

relating to review and verification procedures, allowing certain claimants to file an application under the Crime Victims' Compensation Act, and the administration of the Sexual Assault Prevention and Crisis Services Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Article 56.39, Code of Criminal Procedure, is amended to read as follows:

(a) An order for a mental or physical examination or an autopsy as provided by Article 56.38(c)(2) [~~56.38(c)(3)~~] may be made for good cause shown on notice to the individual to be examined and to all persons who have appeared.

SECTION 2. Article 56.61, Code of Criminal Procedure, as amended by Chapters 496 (S.B. 808) and 716 (H.B. 2916), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY INJURIOUS CONDUCT PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), the attorney general may not award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980.

(b) The attorney general may award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if:

1 (1) the conduct was in violation of Chapter 19, Penal
2 Code;

3 (2) the identity of the victim is established by a law
4 enforcement agency on or after January 1, 2009[, ~~and the pecuniary~~
5 ~~loss was incurred with respect to the victim's funeral or burial on~~
6 ~~or after that date~~]; and

7 (3) the claimant files the application for
8 compensation within the limitations period provided by Article
9 56.37(e).

10 SECTION 3. The change in law made by this Act applies only
11 to criminally injurious conduct committed against a victim whose
12 identity is established by a law enforcement agency on or after
13 January 1, 2009. Criminally injurious conduct committed against a
14 victim whose identity is established by a law enforcement agency
15 before January 1, 2009, is governed by the law in effect on the date
16 the victim's identity was established, and the former law is
17 continued in effect for that purpose.

18 SECTION 4. Section 420.003, Government Code, is amended by
19 adding Subdivisions (1-e) and (7-a) and amending Subdivisions (5),
20 (6), and (7) to read as follows:

21 (1-e) "Minimum services" means:

22 (A) a 24-hour crisis hotline;

23 (B) crisis intervention;

24 (C) public education;

25 (D) advocacy; and

26 (E) accompaniment to hospitals, law enforcement
27 offices, prosecutors' offices, and courts.

1 (5) "Sexual assault examiner" means a person who uses
2 an attorney general-approved ~~[a service-approved]~~ evidence
3 collection kit and protocol to collect and preserve evidence of a
4 sexual assault or other sex offense.

5 (6) "Sexual assault nurse examiner" means a registered
6 nurse who has completed an attorney general-approved ~~[a~~
7 ~~service-approved]~~ examiner training course described by Section
8 420.011 and who is certified according to minimum standards
9 prescribed by attorney general rule.

10 (7) "Sexual assault program" means any local public or
11 private nonprofit corporation, independent of a law enforcement
12 agency or prosecutor's office, that is operated as an independent
13 program or as part of a municipal, county, or state agency and that
14 provides the minimum services to address sexual assault
15 ~~[established by this chapter]~~.

16 (7-a) "State sexual assault coalition" means a
17 statewide nonprofit organization that has been identified as a
18 state sexual assault coalition by a state or federal agency
19 authorized to make that designation.

20 SECTION 5. Section 420.004, Government Code, is amended to
21 read as follows:

22 Sec. 420.004. ADMINISTRATION OF PROGRAM ~~[SERVICE]~~.
23 ~~[(a)]~~ The attorney general shall administer the Sexual Assault
24 Prevention and Crisis Services Program and may delegate a power or
25 duty given to the attorney general under this chapter to an employee
26 in the attorney general's office ~~[Service is a division in the~~
27 ~~office of the attorney general]~~.

1 ~~[(b) The attorney general may adopt rules relating to~~
2 ~~assigning service areas, monitoring services, distributing funds,~~
3 ~~and collecting information from programs in accordance with this~~
4 ~~chapter.]~~

5 SECTION 6. Subsections (a), (b), and (d), Section 420.005,
6 Government Code, are amended to read as follows:

7 (a) For purposes described by Section 420.008, the ~~[The]~~
8 attorney general may award grants to sexual assault programs, state
9 sexual assault coalitions, and other appropriate local and
10 statewide programs and organizations related to sexual assault
11 ~~[programs described by Section 420.008. A grant may not result in~~
12 ~~the reduction of the financial support a program receives from~~
13 ~~another source].~~

14 (b) The attorney general may by rule:

15 (1) determine eligibility requirements for any grant
16 awarded under this chapter;

17 (2) require a grant recipient to offer minimum
18 services for not less than nine months before receiving a grant and
19 to continue to offer minimum services during the grant period; and

20 (3) require a grant recipient to submit financial and
21 programmatic reports ~~[require that to be eligible for a grant,~~
22 ~~certain programs must provide at a minimum:~~

23 ~~[(1) a 24-hour crisis hotline,~~

24 ~~[(2) crisis intervention,~~

25 ~~[(3) public education,~~

26 ~~[(4) advocacy and accompaniment to hospitals, law~~
27 ~~enforcement offices, prosecutors' offices, and courts for~~

1 ~~survivors and their family members, and~~

2 ~~[(5) crisis intervention volunteer training].~~

3 (d) This section does not prohibit a grant recipient
4 ~~[program]~~ from offering any additional service, including a service
5 for sexual assault offenders.

6 SECTION 7. Section 420.006, Government Code, is amended to
7 read as follows:

8 Sec. 420.006. SPECIAL PROJECTS. The attorney general may
9 consult and contract with or award grants to entities described by
10 Section 420.005(a) ~~[local and statewide programs]~~ for special
11 projects to prevent sexual assault and improve services to
12 survivors.

13 SECTION 8. Subsection (b), Section 420.007, Government
14 Code, is amended to read as follows:

15 (b) The attorney general may not use more than 15 percent of
16 the annual legislative appropriation to the attorney general under
17 Section 420.008(c)(1) ~~[service]~~ for the administration of this
18 chapter.

19 SECTION 9. Section 420.009, Government Code, is amended to
20 read as follows:

21 Sec. 420.009. REPORT. Not later than December 10 of each
22 even-numbered year, the ~~[The]~~ attorney general shall publish a
23 report regarding grants awarded under this chapter ~~[on the service~~
24 ~~not later than December 10 of each even-numbered year]~~. The report
25 must ~~[summarize reports from programs receiving grants from the~~
26 ~~attorney general,~~] analyze the effectiveness of the grants~~[,]~~ and
27 include information on the expenditure of funds authorized by this

chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. A copy of the report shall be submitted to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Senate Committee on Health and Human Services or its successor committee, and House Committee on Human Services or its successor committee.

SECTION 10. Section 420.010, Government Code, is amended to read as follows:

Sec. 420.010. CONFIDENTIALITY. The attorney general may not disclose any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a sexual assault program.

SECTION 11. The heading to Section 420.011, Government Code, is amended to read as follows:

Sec. 420.011. CERTIFICATION BY ATTORNEY GENERAL; ~~[AND]~~ RULES.

SECTION 12. Subsection (a), Section 420.011, Government Code, is amended to read as follows:

(a) The attorney general may adopt rules necessary to implement this chapter. A proposed rule must be provided to grant recipients ~~[programs receiving grants]~~ at least 60 days before the date of adoption.

SECTION 13. Subsection (a), Section 420.013, Government Code, is amended to read as follows:

(a) The comptroller shall deposit any money received under this subchapter and any money credited to the Sexual Assault

1 Prevention and Crisis Services Program [~~program~~] by another law in
2 the sexual assault prevention and crisis services fund.

3 SECTION 14. Subsections (a), (b), and (c), Section 420.031,
4 Government Code, are amended to read as follows:

5 (a) The attorney general [~~service~~] shall develop and
6 distribute to law enforcement agencies and proper medical personnel
7 an evidence collection protocol that shall include collection
8 procedures and a list of requirements for the contents of an
9 evidence collection kit for use in the collection and preservation
10 of evidence of a sexual assault or other sex offense. Medical or
11 law enforcement personnel collecting evidence of a sexual assault
12 or other sex offense shall use an attorney general-approved [~~a~~
13 ~~service-approved~~] evidence collection kit and protocol.

14 (b) An evidence collection kit must contain [~~the following~~
15 ~~items:~~

16 [~~(1)~~] items to collect and preserve evidence of a
17 sexual assault or other sex offense[+] and

18 [~~(2)~~] other items [~~recommended by the Evidence~~
19 ~~Collection Protocol Advisory Committee of the attorney general and~~
20 determined necessary for the kit by the attorney general.

21 (c) In developing the evidence collection kit and protocol
22 [~~procedures and requirements~~], the attorney general [~~service~~]
23 shall consult with individuals and organizations having knowledge
24 and experience in the issues of sexual assault and other sex
25 offenses.

26 SECTION 15. Section 420.051, Government Code, is amended to
27 read as follows:

1 Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT.

2 An individual may act as an advocate for survivors of sexual assault
3 for the purposes of Article 56.045, Code of Criminal Procedure, if
4 the individual has completed a sexual assault training program
5 certified by the attorney general [~~department~~] and is an employee
6 or volunteer of a sexual assault program[+]

7 ~~[(1) is employed by a sexual assault program; or~~
8 ~~[(2) provides services through a sexual assault~~
9 ~~program as a volunteer under the supervision of an advocate].~~

10 SECTION 16. Subsection (b), Section 420.073, Government
11 Code, is amended to read as follows:

12 (b) A survivor or other person authorized to consent may
13 withdraw consent to the release of information by submitting a
14 written notice of withdrawal to the person or sexual assault
15 program to which consent was provided. Withdrawal of consent does
16 not affect information disclosed before the date written notice of
17 the withdrawal was received.

18 SECTION 17. Subsection (e), Section 420.0735, Government
19 Code, is amended to read as follows:

20 (e) A survivor or other person authorized to consent may
21 withdraw consent to the release of evidence by submitting a written
22 notice of withdrawal to the person or sexual assault program to
23 which consent was provided. Withdrawal of consent does not affect
24 evidence disclosed before the date written notice of the withdrawal
25 was received.

26 SECTION 18. Subdivisions (2) and (3), Section 420.003, and
27 Subsections (c) and (f), Section 420.005, Government Code, are

1 repealed.

2 SECTION 19. This Act takes effect September 1, 2013.